

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	
Establishing Just and Reasonable Rates for Local Exchange Carriers)	WC Docket No. 07-135
)	
High-Cost Universal Service Support)	WC Docket No. 05-337
)	
Developing an Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
)	
Federal-State Joint Board on Universal Service		CC Docket No. 96-45
Lifeline and Link-up		WC Docket No. 03-109
Universal Service Reform – Mobility Fund		WT Docket No. 10-208

**REPLY COMMENTS
of the
OKLAHOMA TELEPHONE ASSOCIATION**

I. INTRODUCTION

- A. The Oklahoma Telephone Association (OTA) has thirty-six (36) member Rural Local Exchange Carriers (RLECs) and approximately 120 Associate Member companies which provide products and services to the member companies. The OTA member companies are located in predominately the most rural areas of Oklahoma and serve approximately 142,900 access lines, or about fifteen (15) percent of the access lines in the state. Their service territories account for approximately fifty-six (56) percent of the geographic area of the state. These companies range in size from 111 access lines to about 46,000 access lines. Three of the member companies are owned by the TDS Corporation and one is a subsidiary of Fairpoint Corporation. The remaining thirty two (32) companies are either private family-owned companies or cooperatives.
- B. The OTA members have been genuinely concerned about numerous provisions of the National Broadband Plan (NBP or Plan) since its release in 2010. Unfortunately, as more information has become available about the implementation of the NBP, the uncertainty in the industry has become more prevalent. The recent USF/ICC Order and FNPRM issued by the Federal Communications Commission (Commission or FCC) have caused our initial concerns to grow

even stronger. The member companies of OTA not only provide essential communication services to many of the rural areas of Oklahoma, but also provide much of the local leadership in the community, both financially and personally. They serve on the local school boards, hospital boards, bank boards, and fulfill many other civic roles throughout the state.

II. DISCUSSION

- A. The OTA supports and concurs in the FNPRM Comments filed by NECA, NTCA, OPASTCO, and WTA on February 24, 2012. We will not duplicate the arguments or rationale for those recommendations in these comments. But we do encourage the FCC to give serious consideration to the concerns and recommendations expressed in that filing.
- B. Currently the OTA member companies receive a VERY significant portion, as much as 70%, of their total revenues from access service revenues to support the delivery of broadband and local services to high-cost remote and sparsely populated areas of Oklahoma. The OTA member RLECs have already made great strides to provide the type of broadband services proposed in the Plan. In the areas served by the OTA member companies, several provide over 90 % of their subscribers with access to high speed broadband service.
- C. Obviously the phase down, or entire elimination, of access revenues, with no mechanisms for replacement, would have a devastating impact on the ability of the Oklahoma RLECs to continue to provide local, broadband, and other communication services to rural Oklahomans. The Commission must ensure that specific, predictable, sufficient and reliable replacement mechanisms are in place to preserve the universal availability of local and broadband services in rural Oklahoma, and that they remain in place without any of the proposed phase-outs proposed in the FNPRM.
- D. The Oklahoma Corporation Commission (OCC) has taken an active role in the regulation and oversight of Oklahoma intrastate access charges since the establishment of access rates in 1983. The OCC has jurisdiction and authority over all telecommunication service providers in all matters relating to the performance of their intrastate public duties pursuant to the Oklahoma Constitution. In fact, the OCC currently has several active dockets involving intrastate access, including Cause Nos. PUD201200022, PUD20120023, PUD201200024, PUD201200025, and PUD201200027. It is not reasonable or necessary for the FCC to preempt state regulation of intrastate access rates.
- E. The implementation of a bill and keep system is not appropriate. Carriers who use the network, should be required to make payments for that usage, for both originating and terminating traffic. Unless the exchange of traffic is in perfect balance between originating and terminating, a company is not duly compensated for the use of its property. Since the perfect balance is most likely never to occur, one company will always be financially disadvantaged under the bill and keep arrangement.
- F. Due to the cap and phase down of the baseline, the Commission's Order does not provide for an opportunity to recover access costs assigned to interstate, by the Commission's own rules. The Commission should adopt an additional rate element to allow for this recovery.

- G. Transit rates should be capped at current levels and regulated to prevent carriers that have these facilities from abusing their dominant position in the market. Current network arrangements, such as Feature Group C, must be maintained and expanded where necessary to insure continued high quality customer service.
- H. If the Commission ultimately determines it wishes to continue to implement the additional actions contained in the FNPRM, the Commission should allow sufficient time for the industry to adapt to the provisions in the original Order before implementing any of the additional provisions and modifications contained in the FNPRM. The RLEC industry in Oklahoma has already been placed in turmoil. Additional negative impacts, at this time, will only worsen the ability of the Oklahoma RLECs to continue the provisioning of broadband services to their customers in rural Oklahoma.
- I. Some of our Oklahoma companies committed to long term loans to provide needed services to the rural communities they serve. They made these commitments with the understanding that the current levels of support, which have been in place for several decades, would continue to be available to insure these services remain available to those who need them. The consensus approach, as recommended by the rural industry, would sustain the RLECs ability to repay the long term loans to the RUS and other financial institutions who have invested in rural Oklahoma. Under the current provisions of the USF/ICC Order, and the considerations in the FNPRM, those loans may be in jeopardy.
- J. In an industry that was already suffering from uncertainty, caused by unknown, but pending federal regulation, and not true market conditions; the FCC Order has confirmed many of those fears. Several of our companies have committed to long term loans in order to reach the level of broadband and other services currently available in their service areas. The FCC's order has definitely changed the rules of the game. This concern was made crystal clear in the Rural Utilities Service (RUS) filing with the FCC. In that filing, RUS demonstrated the estimated money that could be lost in failed loans if the FCC implemented an order that drastically impacted the current revenue structure of the rural LECs. We now have evidence that the concern expressed by the RUS is, in fact, realistic. Four Oklahoma rural LECs have rescinded their BIP awards after reviewing the new FCC Order. The total value of those BIP awards amounted to \$109.3 million. Since the BIP award process is competitive, it is evident that the investment in rural Oklahoma was justified and needed to provide broadband services to those rural areas. Now; however, due to the concerns of those four companies about the effects of the FCC Order, those investments will not be made. Upon further review, others may take similar actions. For the customers and communities in those very rural areas, the promises and ideals stated in the FCC National Broadband Plan might never be realized.
- K. The economic concerns expressed by the member companies of the OTA have, unfortunately, become reality to a great extent. The FCC Order implements challenging cuts, caps, and constraints that will inhibit the local carriers' ability to invest in and maintain their networks in the future. Traditional revenue streams, which were originally implemented for substantiated reasons, have been eliminated or severely reduced. Many of the changes were based solely upon hopes or unsubstantiated reasoning on what may be the future of communications. It would appear to be a big gamble to determine if these assumptions become reality in the rural areas of Oklahoma and the nation. There was a system in place that worked effectively in providing both traditional and new services in rural areas.
- L. The uncertainty in the industry; that was created early on in this process, has unfortunately become a reality for the rural local exchange companies in Oklahoma. This uncertainty makes it difficult, if not impossible, for rural carriers to plan for and commit to the substantial broadband

infrastructure investments that will be necessary to bring high-speed broadband services to consumers living in remote and costly-to-serve areas of Oklahoma.

III. CONCLUSION

The uncertainty caused by the Commission since the announcement of the NBP has had very negative, and now potentially devastating, impacts on the RLEC industry in Oklahoma. The progress in Broadband deployment in recent years has been halted or slowed due to the uncertainty in the industry for the future. The impacts of the FCC Order need to be addressed and settled before additional FMPRM provisions are implemented. As with any other industry in this type of turmoil, it would be best to let the market have time to adjust to the previously ordered changes. We ask for your consideration and implementation of the issues outlined in the FNPRM in accordance with the recommendations outlined in these comments and with those contained in the FNPRM Comments filed by NECA, NTCA, OPASTCO, and WTA on February 24, 2012.

Respectfully Submitted,

Oklahoma Telephone Association

/S/ Larry D. Jones
President
Oklahoma Telephone Association